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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,324	02/19/2004	Stefan Raav	SBV-10528	7620

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EXAMINER	
HANSEN, COLBY M	

ART UNIT	PAPER NUMBER
3682	

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/782,324	RAAV ET AL.	
	Examiner	Art Unit	
	Colby Hansen	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 January 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomaru (US Pat. 5,531,317) in view of WO 00/69704.

Tomaru (US Pat. 5,531,317) discloses a locking configuration comprising an adjustable steering column; a fixed mounting; a tilt-adjustable casing tube 3 secured on said fixed mounting, said tilt-adjustable casing tube surrounding said adjustable steering column; a locking device proved between said fixed mounting and said tilt-adjustable casing tube, said locking device having an actuating lever 11 pivotably mounted about a pivot point between a locking position and a release position laterally next to or below said tilt-adjustable casing tube such the release position is below the locking position; a handle (the terminal end of 11) component disposed at a free end of said actuating lever, said handle component being disposed at a given distance from said tilt-adjustable casing tube when said actuating lever is in the locking position; and said actuating lever 11 having an angled region formed with a predetermined buckling point (inherent as all materials have innate material strength that will "buckle' due to excessive force) between said pivot point and said handle component. Tomaru

discloses the claimed invention except for the explicit disclosure of a lever member pre-designed for impact absorption.

WO 00/69704 teaches a plastically deformable, impact absorbing connection assembly wherein said connection has an angled region 10, 11 formed with a predetermined buckling point; wherein said connection has a hook-shaped bent region 12 adjacent said connection ends and is formed with a predetermined buckling point at said hook-shaped bent region 12; wherein: said connection has a cross-sectional profile selected from the group consisting of a rectangular profile and a T-shaped profile; and said connection has a given region selected from the group consisting of an angled region and a bent region, said given region having a reduction in cross section for forming a predetermined buckling point for the purpose of absorbing impact forces between an automobile component a human being, as suggested by WO 00/69704 in col. 3/lines 23-26.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the impact absorbing connection as taught by WO 00/69704 within locking lever of Tomaru (US Pat. 5,531,317), so in the event of impact between a human and shift lever, the lever with easily deform, thus reducing the likelihood catastrophic injury to the human, as suggested by WO 00/69704 (col. 3/lines 23-26).

Furthermore, with regard to the cladding limitation, said "cladding" is known within the automobile industry commonly as a "kick panel". Utilizing a "kick panel" with padding and with a "trough" (i.e. counterbore with slot) is old and well known. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized said

"kick panel" to further disperse force resulting from the impact of the driver onto said "kick panel", thereby thus reducing the likelihood of injury to the driver.

Response to Arguments

Applicant's arguments filed 1/03/2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Applicant's arguments that the Polz reference is not combinable with Tomaru because Polz is concerned with the "bivalent' problem of remaining rigid in case of front impact and buckling in case of pedestrian impact in focusing too narrowly upon the teaching reference

at hand. In the broader sense, Polz teaches of the intentional weakening of a pivoting hinge arrangement upon a vehicle (by means of a buckling point at a hooked portion) so that upon impact, injury to a person is eliminated or reduced. Use of such a feature would clearly be as applicable to the interior of the vehicle as it is to the exterior, given the perils occupants face due to sudden stops or collisions (i.e. delta v). Proof of the logical use of impact absorbing features is exhibited by the almost universal implementation of air bags, crumple zones, padded dashboards, etc. within the automotive industry. Therefor the modification of Tomaru in view of the teachings of Polz is clearly proper.

Applicant also argues Polz is not a lever, therefor not applicable to Tomaru. Firstly, Examiner disagrees that Polz is not a lever arrangement, as is clearly seen in the embodiment of figure 3, Polz includes two lever elements 5 and 7, rotating relative to one another by pivoted hinge 6. Secondly, applicant is again focusing too narrowly upon the art at hand, as the teaching at issue is an impact absorbing buckling point for the safety of person around a vehicle. Whether Polz is a lever (which it is) is largely irrelevant since there is a reason for absorbing impact forces on non-lever portions of a vehicle.

Applicant also argues that the combination does not discloses the handle to move "toward said tilt-adjustable casing tube". Such a limitation is merely functionality, and has very little patentable weight. The combination must only be capable performing said task, which is would be given the myriad of possible impact variations.

RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER

FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(571) 273-8300**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MEP. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MEP. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 872-9306) on _____

(Date)

Typed or printed name of person signing this certificate:

_____

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MEP. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

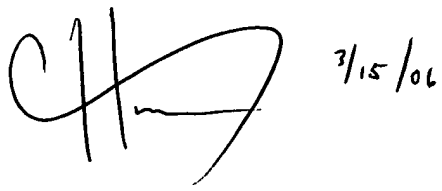
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colby Hansen whose telephone number is (571) 272-7105. The examiner can normally be reached on Monday through Thursday and every other Friday from 7:30 PM to 5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley, can be reached on (571) 272-6917. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Colby M. Hansen

Patent Examiner



3/15/06

RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER